

§ 200.305

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an individual access to any information compiled in reasonable anticipation of a civil action or proceeding.

(5 U.S.C. 552a(f); sec. 19, Securities Act of 1933, 48 Stat. 85, as amended; sec. 23, Securities Exchange Act of 1934, 48 Stat. 901, as amended; sec. 20, Public Utility Holding Company Act of 1935, 49 Stat. 833; sec. 319, Trust Indenture Act of 1939, 53 Stat. 1173; sec. 38, Investment Company Act of 1940, 54 Stat. 841; sec. 211, Investment Advisers Act of 1940, 54 Stat. 855 (15 U.S.C. 77s, 78w, 79t, 77sss, 80a–37, 80b–11))

[40 FR 44068, Sept. 24, 1975, as amended at 49 FR 13866, Apr. 9, 1984]

§ 200.305 Special procedure: Medical records.

(a) *Statement of physician or mental health professional.* When an individual requests access to records pertaining to him that include medical and/or psychological information, the Commission, if it deems it necessary under the particular circumstances, may require the individual to submit with the request a signed statement by his physician or a mental health professional indicating that, in their opinion, disclosure of the requested records or information directly to the individual will not have an adverse effect on the individual.

(b) *Designation of physician or mental health professional to receive records.* If the Commission believes, in good faith, that disclosure of medical and/or psychological information directly to an individual could have an adverse effect on that individual, the individual may be asked to designate in writing a physician or mental health professional to whom he would like the records to be disclosed, and disclosure that otherwise would be made to the individual will instead be made to the designated physician or mental health professional.

§ 200.306 Requests for amendment or correction of records.

(a) *Place to make requests.* A request by an individual to amend or correct records pertaining to him or her may be made in person during normal business hours at the Commission's Public Reference Room located at 450 Fifth Street, NW., Room 1024, Washington, DC, or by mail addressed to the Pri-

vacy Act Officer, Securities and Exchange Commission, Washington, DC 20549.

(1) *Information to be included in requests.* Each request to amend or correct a Commission record shall reasonably describe the record sought to be amended or corrected. Such description should include, for example, relevant names, dates and subject matter to permit the record to be located among the records maintained by the Commission. An individual who has requested that a record pertaining to him be amended or corrected will be advised promptly if the record cannot be located on the basis of the description given and that further identifying information is necessary before his request can be processed. An initial evaluation of a request presented in person will be made immediately to ensure that the request is complete and to indicate what, if any, additional information will be required. Verification of the individual's identity as set forth in § 200.303(a) (2), (3), (4) and (5) may also be required.

(2) *Basis for amendment or correction.* An individual requesting an amendment or correction to a record pertaining to him shall specify the substance of the amendment or correction and set forth facts and provide such materials that would support his contention that the record pertaining to him as maintained by the Commission is not accurate, timely or complete, or that the record is not necessary and relevant to accomplish a statutory purpose of the Commission as authorized by law or by Executive Order of the President.

(b) *Acknowledgement of requests for amendment or correction.* Receipt of a request to amend or correct a record pertaining to an individual normally will be acknowledged in writing within 10 days after such request has been received. When a request to amend or correct is made in person, the individual making the request will be given a written acknowledgement when the request is presented. The acknowledgement will describe the request received and indicate when it is anticipated that action will be taken on the request. No acknowledgement will be sent when the request for amendment

or correction will be reviewed, and an initial decision made, within 10 days from the date the request is received.

[40 FR 44068, Sept. 24, 1975, as amended at 47 FR 26819, June 22, 1982]

§ 200.307 Review of requests for amendment or correction.

(a) *Initial review.* As in the case of requests for access, requests by individuals for amendment or correction to records pertaining to them will be referred to the Commission's Privacy Act Officer for an initial determination, except that such requests may be considered by a Division Director or Office Head (other than the General Counsel) as set forth in § 200.304(a) of this subpart.

(b) *Standards to be applied in reviewing requests.* In reviewing requests to amend or correct records, the Privacy Act Officer, or Division or Office head, will be guided by the criteria set forth in 5 U.S.C. 552a(e)(1), i.e., that records maintained by the Commission shall contain only such information as is necessary and relevant to accomplish a statutory purpose of the Commission as required by statute or Executive Order of the President and that such information also be accurate, timely, and complete. These criteria will be applied whether the request is to add material to a record or to delete information from a record.

(c) *Time for acting on requests.* Initial review of a request by an individual to amend or correct a record pertaining to him shall be completed as promptly as is reasonably possible and normally within 30 days (excluding Saturdays, Sundays and legal holidays) from the date the request was received, unless unusual circumstances preclude completion of review within that time. If the anticipated completion date indicated in the acknowledgement cannot be met, the individual requesting the amendment will be advised in writing of the delay and the reasons therefor, and also advised when action is expected to be completed.

(d) *Grant of requests to amend or correct records.* If a request to amend or correct a record is granted in whole or in part, the Privacy Act Officer will: (1) Advise the individual making the request in writing of the extent to which

it has been granted; (2) amend or correct the record accordingly; and (3) where an accounting of disclosures of the record has been kept pursuant to 5 U.S.C. 552a(c), advise all previous recipients of the record of the fact that the record has been amended or corrected and the substance of the amendment or correction.

(e) *Denial of requests to amend or correct records.* If an individual's request to amend or correct a record pertaining to him is denied in whole or in part, the Privacy Act Officer will:

(1) Promptly advise the individual making the request in writing of the extent to which the request has been denied;

(2) State the reasons for the denial of the request;

(3) Describe the procedures established by the Commission to obtain further review within the Commission of the request to amend or correct, including the name and address of the person to whom the appeal is to be addressed; and

(4) Inform the individual that the Privacy Act Officer will provide information and assistance to the individual in perfecting an appeal of the initial decision.

(5 U.S.C. 552a(f); sec. 19, Securities Act of 1933, 48 Stat. 85, as amended; sec. 23, Securities Exchange Act of 1934, 48 Stat. 901, as amended; sec. 20, Public Utility Holding Company Act of 1935, 49 Stat. 833; sec. 319, Trust Indenture Act of 1939, 53 Stat. 1173; sec. 38, Investment Company Act of 1940, 54 Stat. 841; sec. 211, Investment Advisers Act of 1940, 54 Stat. 855 (15 U.S.C. 77s, 78w, 79t, 77sss, 80a-37, 80b-11))

[40 FR 44068, Sept. 24, 1975, as amended at 49 FR 13866, Apr. 9, 1984]

§ 200.308 Appeal of initial adverse agency determination as to access or as to amendment or correction.

(a) *Administrative review.* Any person who has been notified pursuant to § 200.304(c) that his request for access to records pertaining to him has been denied, or pursuant to Section 307(e) of this subpart that his request for amendment or correction has been denied in whole or in part, or who has received no response to a request for access or to amend within 30 days (excluding Saturdays, Sundays and legal